IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Vijay Singh vs. R.S.R.T.C. & Ors.
(S.B.C. Writ Petition No. 307/03)

Date of Order :- 15th December, 2006

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.P.R.Singh, Advocate for the petitioner.
Mr.Sangeet Lodha)
Mrs. Suman Porwal), Advocate for the respondent.
Mrs.Deepika Vyas for Mr. Ranjeet Joshi, for the respondent.

BY THE COURT :

The petitioner who is working as Assistant Depot Manager/Traffic Inspector has raised the grievance that the respondents in making promotion on the post of Depot Manager has unduly ignored his claim and therefore they may be directed to convene review D.P.C. and if upon considering of his case, he is found suitable, promote him with all consequential benefits which have been given to his junior respondent no. 4 Banshilal.

Contention of the petitioner is that contrary to provisions contained in Rajasthan Service Rules, 1951 (for short "the Rules of 1951") , the respondents have extended zone of

consideration for S.C. candidates by ten times thereby considering the case of respondent no.4 who was at serial no. 137 in the seniority list. According to the requirement of the Rules, the respondents were also required to prepare a reserve list equivalent to the 50% of the total number of the posts for which promotions were given. There were in all eight vacancies. While the respondents prepared the reserved list of 4 candidates only whereas it should have been prepared upto 8 candidates there being total 16 vacancies. The petitioner has referred to Rule 117 of the Rajasthan State Road Transport Corporation Service Regulations, 1965(for short "the Regulations") which contains the provision relating to the promotion. Grievance of the petitioner is that the respondents have completely excluded his name from consideration whereas as per the aforesaid Rule, his case was required to be considered.

The respondents have contested the petition and argued that no person junior to the petitioner from general category has been promoted. So far as the persons shown at serial nos. 13 to 16 in the order of promotion dated 7.3.1998 are concerned, they were though junior to the petitioner but their promotion has been made against the vacancies reserved for S.C./S.T. category . The D.P.C. convened in the year 1997-98 was required to prepare a

panel of four candidates as there were only four anticipated vacancies in general category. While Subhkaran Adha was promoted on the post of Assistant Divisional Manager vide order dated 7.3.1998, the other three persons namely Shri Baini Prasad, Shri J.N.Khatri and Shri Banshidhar Sharma were promoted vide order dated 9.7.1998. As a result of their promotion to the higher cadre, four posts of Depot Manager fell vacant and accordingly a panel of only four candidates was prepared. Shri Danmal Jain was accorded promotion on the post of Depot Manager vide order dated 10.3.1998. Shri Banshidhar Sharma was senior to the petitioner and therefore he could not raise any grievance against his promotion. Subsequently however the petitioner has also been promoted by order dated 4.12.2003 against the vacancies of the year 2003-04.

I have considered the arguments advanced by the learned counsel for the parties and perused the record.

It is not the case of the petitioner that any of his junior has been promoted. The persons namely at serial nos. 13 to 14 in the promotion order dated 7.3.1998 belong to reserve category therefore their promotions were made according to Regulation 117 (d) of the Regulations which inter-alia provides as under :-

> "117(d). As soon as it is decided that a certain number of posts in a class of service will be filled up by promotion, the Deputy General Manager or such other authority as may be nominated by the Corporation, shall prepare a list of senior most persons eligible for promotion, not exceeding 10 times the number of vacancies."

When the respondent corporation has got its own regulations, it cannot be said that they have committed any illegality in extending the zone of consideration upto ten times as against five times provided for in the State Service Rules. As regards the argument that one vacancy which could not be filled up due to the name of one Shri Harish B. Mathur being kept in sealed cover should have been taken as anticipated vacancy, this cannot be accepted because when Shri Harish B.Mathur was recommended by D.P.C. for promotion and recommendation qua him was ordered to be kept in sealed cover, such vacancy could not be considered as available to recommend any promotion to another their against.

In view of what has been discussed above, I do not find any merit in this writ petition. The same is hereby dismissed. There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.